

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 14th day of September 2017, at 7:00 P.M., and there were

PRESENT: DANIEL BEUTLER, MEMBER
 JOHN BRUSO, MEMBER
 LAWRENCE PIGNATARO, MEMBER
 FRANK SWIGONSKI, MEMBER
 RICHARD QUINN, CHAIRMAN

ABSENT: JILL MONICELLI, MEMBER

ALSO PRESENT: DIANE M. TERRNOVA, TOWN CLERK
 KEVIN LOFTUS, TOWN ATTORNEY
 MATTHEW FISCHIONE, CODE ENFORCEMENT OFFICER

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

EXECUTIVE SESSION:

AT 8:43 P.M., UPON A MOTION DULY MADE BY CHAIRMAN QUINN, SECONDED BY BOARD MEMBER PIGNATARO AND CARRIED, the Zoning Board of Appeals entered into Executive Session to deliberate on the announced purpose of hearing advice from legal counsel.

AT 9:16 P.M., the Zoning Board of Appeals reconvened with all members present. The Town Clerk reported that no official actions were taken by the Zoning Board in Executive Session.

PETITION OF: MICHAEL CLEMENT, PRESIDENT, M & B FLIX LLC.

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Michael Clement, President, M & B Flix, LLC, Lancaster, New York for three [3] variances for the purpose of erecting a pole sign on premises owned by the petitioner at 4901 Transit Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3] of the Code of the Town of Lancaster permits one pole sign for each individual building not part of a multiple development.

Chapter 50, Zoning, Section 30F.(2)(c)[3] of the Code of the Town of Lancaster permits one [1] pole sign for each individual building in a General Business (GB) Zoning area. The petitioner, therefore, requests to erect one [1] additional pole sign.

- B. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster. The total face area of the proposed pole sign is forty eight [48] square feet.

Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster limits the total maximum face area of a pole sign on the premises to thirty two [32] square feet. The petitioner, therefore, requests a sixteen [16] square foot variance of the total maximum face area permitted for this proposed pole sign.

- C. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(a) of the Code of the Town of Lancaster for the purpose of erecting a sign on the premises containing a total maximum face area of 618 square feet.

Chapter 50, Zoning, Section 30F.(2)(a) of the Code of the Town of Lancaster limits the total maximum face area of all signs on the premises to 300 square feet. The petitioner, therefore, requests a 318 square foot variance of the total maximum face area of all signs permitted on the premises.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Jonathan Schechter, Esq. Representing Petitioner	Proponent
Lee Chowaniec	Opponent
Robert Bow	Opponent

**IN THE MATTER OF THE PETITION OF MICHAEL CLEMENT, PRESIDENT,
M & B FLIX LLC**

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PIGNATARO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. BEUTLER
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Michael Clement, President, M & B Flix, LLC and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of September 2017, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has requested further information from the petitioner.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

**NOW, THEREFORE, BE IT
RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	WAS ABSENT	
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **TABLED**.

September 14, 2017

PETITION OF: MICHAEL CLEMENT, PRESIDENT, M & B FLIX LLC

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Michael Clement, President, M & B Flix, LLC, Lancaster, New York for one [1] variance for the purpose of permitting use of full movement on the M & B Flix sign located at 4901 Transit Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning Section 30 and Subsection D (2) of the Code of the Town of Lancaster to permit use of full movement on a sign subjected to three conditions.

Chapter 50, Zoning Section 30, and Subsection D (2) of the Code of the Town of Lancaster requires any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign other than that part used to report time, temperature, stock market and/or news report shall be illuminated by a certain flashing, intermittent, rotating or moving light or lights. The petitioner, therefore, requests full movement to be permitted sunrise to sunset.

The Clerk presented and entered into evidence the following items:

- Duly executed petition of the applicant with exhibits and schedules attached thereto.
- Copy of a letter notifying the petitioner of the time and place of this public hearing.
- Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.
- Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Jonathan Schechter, Esq. Representing Petitioner	Proponent
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**IN THE MATTER OF THE PETITION OF MICHAEL CLEMENT, PRESIDENT,
M & B FLIX LLC**

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. BEUTLER, WHO MOVED ITS
ADOPTION, SECONDED BY MR. BRUSO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Michael Clement, President, M & B Flix LLC and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of September 2017, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has requested further information from the petitioner.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

**NOW, THEREFORE, BE IT
RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. BEUTLER	VOTED YES
MR. BRUSO	VOTED YES
MS. MONACELLI	WAS ABSENT
MR. PIGNATARO	VOTED YES
MR. SWIGONSKI	VOTED YES
MR. QUINN	VOTED YES

The resolution granting the variance was thereupon **TABLED**.

September 14, 2017

PETITION OF: MICHAEL MEYER/HULL HOUSE FOUNDATION

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Michael Meyer, representing the Hull House Foundation, 5962 Genesee Street, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a four [4] foot six [6] inch high fence in a required front yard area on premises owned by the Hull House Foundation at 5962 Genesee Street, Lancaster, New York 14086, to wit:

A variance from the requirements of Chapter 50 Zoning, Section 35C. of the Code of the Town of Lancaster. The petitioner proposes to erect a four [4] foot six [6] inch high fence in a required front yard.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard area to three [3] feet in height. The petitioner, therefore, requests a one [1] foot six [6] inch fence height variance.

The Clerk presented and entered into evidence the following items:

- Duly executed petition of the applicant with exhibits and schedules attached thereto.
- Copy of a letter notifying the petitioner of the time and place of this public hearing.
- Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.
- Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Michael Meyer, Petitioner	Proponent
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IN THE MATTER OF: MICHAEL MEYER/HULL HOUSE FOUNDATION

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. SWIGONSKI, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Michael Meyer/Hull House Foundation and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of September 2017, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the duly authorized agent of the property owner.

WHEREAS, the property for which the applicant is petitioning is within a Residential Commercial Office District, (RCO) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	WAS ABSENT	
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

September 14, 2017

PETITION OF: DANA CIPOLLA

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Dana Cipolla, 35 Hillside Parkway, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a storage shed on premises owned by the petitioner at 35 Hillside Parkway, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(a) of the Code of the Town of Lancaster to permit construction of a storage shed within five [5] feet of an existing deck.

Chapter 50, Zoning, Section 10D.(1)(a) of the Code of the Town of Lancaster requires an accessory structure to be located ten [10] feet from any other structure. The petitioner, therefore, requests a five [5] foot variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Dana Cipolla, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: DANA CIPOLLA

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. BRUSO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. BEUTLER
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Dana Cipolla and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of September 2017, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- The aesthetics of the shed will match the house.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. BEUTLER	VOTED YES
MR. BRUSO	VOTED YES
MS. MONACELLI	WAS ABSENT
MR. PIGNATARO	VOTED YES
MR. SWIGONSKI	VOTED YES
MR. QUINN	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

September 14, 2017

PETITION OF: DAVID POPE/D. POPE CONTRACTING LLC

THE 5th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of David Pope, D. Pope Contracting, LLC, 77 Harvard Place, Orchard Park, New York 14127 for one [1] variance for the purpose of erecting a wood frame pool house on property owned by Raphael Blochle and Anne Klein at 29 Hillside Parkway, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(c) of the Code of the Town of Lancaster. The proposed pool house would result in a twenty one [21] foot rear yard set back.

Chapter 50, Zoning, Section 10C.(3)(c) of the Code of the Town of Lancaster requires a thirty five [35] foot rear yard set back. The petitioner, therefore, requests a fourteen [14] foot rear yard set back variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

David Pope,
Representing Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: DAVID POPE/D. POPE CONTRACTING LLC

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PIGNATARO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. SWIGONSKI
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of David Pope/D. Pope Contracting LLC and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of September 2017, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the duly authorized agent of the property owner.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR. BRUSO	VOTED	YES
MS. MONACELLI	WAS ABSENT	
MR. PIGNATARO	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED**.

September 14, 2017

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting
was adjourned at 9:17 P.M.

Signed _____
Diane M. Terranova, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: September 14, 2017